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penalties if the outstanding principal does not exceed \$20,000 and:

(1) The Government cannot collect or enforce collection of any significant sum from the debtor, having due regard for the judicial remedies available to the Government, the debtor's ability to pay (see § 30.25(b)) and the exemptions available to the debtor under State and Federal law;

(2) The debtor cannot be located, there is no security remaining to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset are too remote to justify retention of the claim;

(3) The cost of further collection action is likely to exceed the recoverable amount;

(4) The basis for the claim has proved to be unsupportable; or

(5) The evidence necessary to prove the claim cannot be produced or the necessary witnesses are unavailable.

(b) As required by section 61(a)(2) of the Internal Revenue Code, income arising from the discharge in whole or in part of a debt is to be included in the debtor's gross income for the year in which the debt is discharged. The Secretary will report to the Internal Revenue Service, using Form 1099G, any amount over \$600 which becomes uncollectible because the applicable statute of limitations expires or because the Government agrees with the debtor to forgive or compromise a debt. An amount which is in dispute, which is discharged under Title 11 of the Bankruptcy Act or which arises out of an overpayment which was already taxed, will not be reported. See IRS Instructions for Form 1096 and Revenue Procedure 83-48 for further instructions.

§ 30.32 Exceptions.

(a) The Secretary may suspend, rather than terminate collection of a debt that arises out of its activities if the outstanding principal does not exceed \$20,000 and the Government cannot collect or enforce collection of any significant sum from the debtor (e.g., the debtor cannot be located or is financially unable to pay), but the prospects of future collection are promising enough to justify periodic review of the debt, and there is no statute of limita-

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tions problem. Interest will accrue under § 30.13(a).

(b) Where a significant enforcement policy is involved, the Secretary will, instead of terminating or suspending collection, refer debts to the Department of Justice for litigation.

Subpart E—Referrals to the Department of Justice or GAO

§ 30.33 Litigation.

(a) Debts over \$600 that cannot be collected or otherwise disposed of by the Secretary or its agents will be referred to the appropriate United States Attorney (if the amount does not exceed \$100,000) or the Civil Division of the Department of Justice (if the amount exceeds \$100,000) for litigation. Each referral will include all pertinent information, as required by the Claims Collection Litigation Report, including:

(1) The most current address of the debtor or the name and address of the agent for a corporation upon whom service may be made;

(2) Reasonably current credit data in the form of a credit report or a financial statement showing reasonable prospects of enforcing collection from the debtor, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government; and

(3) A summary of prior collection efforts. Credit data may be omitted if a surety bond, insurance, or the sale of collateral will satisfy the claim in full; or the debtor is in bankruptcy or receivership, or is a unit of State or local government.

(b) Debts of \$600 or less, exclusive of interest and charges, may be referred for litigation if a significant enforcement policy is involved or the debtor is clearly able to pay and the Government can effectively enforce payment.

§ 30.34 Claims over \$20,000.

The Secretary may compromise or suspend or terminate collection of debts where the outstanding principal exceeds \$20,000 only with the approval of, or referral to, the appropriate United States Attorney (if the debt

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does not exceed \$100,000) or the Department of Justice (if the debt exceeds \$100,000).

§ 30.35 GAO exceptions.

The Secretary will refer to the General Accounting Office (GAO) debts arising from GAO audit exceptions.

PART 31—REFERRAL OF DEBT TO IRS FOR TAX REFUND OFFSET

Sec.

31.1 Scope.

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AUTHORITY: 31 U.S.C. 3711, 3716, 3718; Section 2653 of the Deficit Reduction Act (31 U.S.C. 3720A); 26 CFR 301.6402-6T; and 45 CFR Part 30.

SOURCE: 53 FR 25593, July 8, 1988, unless otherwise noted.

§ 31.1 Scope.

(a) The standards set forth in §§ 31.1 through 31.11 are the Department's procedures for requesting the Internal Revenue Service (IRS) to offset tax refunds due taxpayers who have a past due debt obligation to the Department. These procedures are authorized by the Deficit Reduction Act of 1984 (31 U.S.C. 3720A), as implemented by regulation at 26 CFR 301.6402-6T, and apply to the collection of debts as authorized by common law, by 31 U.S.C. 3716, or under other statutory authority.

(b) The Secretary will use the IRS tax refund offset to collect claims which are liquidated or certain in amount, past due and legally enforceable, and which are eligible for tax refund offset under regulations issued by the Secretary of the Treasury.

(c) Except as provided in paragraph (d) of this section, the Secretary will

not report debts to the IRS except for the purpose of using the offset procedures described in §§ 31.1 through 31.11. Debts of less than \$25.00, exclusive of interest and other charges, will not be reported.

(d) If not legally enforceable because of the lapse of the statute of limitations but otherwise valid, a debt amounting to over \$600 will be reported to the IRS as a discharged debt on Form 1099G. (Form 1099G is an information return which government agencies file with the IRS to report discharged debt, and the discharged amount is considered as income to the taxpayer.) [See § 31.9; 45 CFR 30.31(b).]

§ 31.2 Notice of requirements before offset.

A request for reduction of an IRS tax refund will be made only after the Secretary makes a determination that an amount is owed and past due and provides the debtor with 60 calendar days written notice. The Department's Notice of Intent to Collect by IRS Tax Refund Offset (Notice of Intent) will state:

(a) The nature and amount of the debt;

(b) That unless the debt is repaid within 60 calendar days from the date of the Department's Notice of Intent, the Secretary intends to collect the debt by requesting the IRS to reduce any amounts payable to the debtor as refunds of Federal taxes paid by an amount equal to the amount of the debt and all accumulated interest and other charges;

(c) That the debtor has a right to obtain review, within the Department, of the Secretary's initial determination that the debt is past due and legally enforceable (*See* § 31.3); and

(d) That the debtor has a right to inspect and copy departmental records related to the debt as determined by the Secretary and will be informed as to where and when the inspection and copying can be done after the Department receives notice from the debtor that inspection and copying are requested (*See* § 31.5).